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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,300	06/01/2001	Poopathy Kathirgamanathan	A34319-PCT-U	3386

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EXAMINER

YAMNITZKY, MARIE ROSE

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/857,300

Applicant(s)

KATHIRGAMANATHAN,
POOPATHY

Examiner

Marie R. Yamnitzky

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-55 is/are pending in the application.
4a) Of the above claim(s) 40 and 42-55 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 41 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Art Unit: 1774

1. This Office action is in response to applicant's amendment received August 17, 2004, which cancels claims 22-34 and 36-39, amends claims 40-42, and adds claims 43-55.

Claims 40-55 are pending.

2. The Remarks section of applicant's August 17th amendment makes reference to a proposed drawing correction adding a prior art label to Figure 5. The proposed inclusion of a "Prior Art" label to Figure 5 is acceptable. However, 37 CFR 1.121 requires a replacement drawing sheet incorporating the proposed change and identified in the top margin as "Replacement Sheet". Such a replacement sheet does not appear to have been received with the August 17th amendment.

3. Claims 40 and 42-55 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made by original presentation.

Claims 40 and 42-55 are drawn to methods and will be rejoined upon allowance of a product claim subject to the conditions set forth in MPEP 821.04. In the event that no product claim is allowed, applicant will need to file a divisional application under 37 CFR 1.53(b) if examination of method claims is desired.

Art Unit: 1774

4. The rejection of claims 22-34, 36-39 and 41 under 35 U.S.C. 112, second paragraph, as set forth in the Office action mailed March 26, 2004, is rendered moot in part by the cancellation of claims 22-34 and 36-39, and is otherwise overcome by amendment of claim 41.

5. Claim 41 as presented in the August 17th amendment is the same as claim 41 as presented in the amendment received June 04, 2003. The grounds of rejection applied against claim 41 in this Office action are the same as the grounds of rejection applied against claim 41 in the Office action mailed August 07, 2003.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by VanSlyke et al. (US 4,720,432).

See column 11, line 6-c. 12, l. 10 (especially c. 12, l. 3).

VanSlyke's disclosure of "Lithium oxine (a.k.a., 8-quinolinol lithium)" anticipates a lithium quinolate as claimed in present claim 41.

With respect to the language of present claim 41 regarding the process by which the lithium quinolate is made, product-by-process claims are not limited to the method steps recited,

Art Unit: 1774

only to the structure implied by the steps. In the present case, the recited process limitations add no positive structural limitations to the lithium quinolate made by the recited process other than to define optional substituent(s) of the quinolate.

8. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 6-145146.

JP 6-145146 discloses various metal quinolates for use in an electroluminescent device. The metal of the metal quinolates may be lithium. For example, see paragraphs [0004]-[0005] and [0030].

With respect to the language of present claim 41 regarding the process by which the lithium quinolate is made, product-by-process claims are not limited to the method steps recited, only to the structure implied by the steps. In the present case, the recited process limitations add no positive structural limitations to the lithium quinolate made by the recited process other than to define optional substituent(s) of the quinolate.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

Art Unit: 1774

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 6:30 a.m. to 4:00 p.m. Monday, Tuesday, Thursday and Friday, and every other Wednesday from 6:30 a.m. to 3:00 p.m.

The current fax number for Art Unit 1774 is (703) 872-9306 for all official faxes. (Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

MRY
January 31, 2005



MARIE YAMNITZKY
PRIMARY EXAMINER

1774